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*In Propria Persona*

**UNITED STATES DISTRICT COURT FOR  
THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

**TODD R. G. HILL, et al,**

**Plaintiffs**

**vs.**

**THE BOARD OF DIRECTORS,  
OFFICERS AND AGENTS AND  
INDIVIDUALS OF THE PEOPLES  
COLLEGE OF LAW, et al.,**

**Defendants.**

**CIVIL ACTION NO. 2:23-cv-01298-JLS-BFM**

**The Hon. Josephine L. Staton**  
Courtroom 8A, 8th Floor

**Magistrate Judge Brianna Fuller Mircheff**  
Courtroom 780, 7th Floor

**PLAINTIFF'S RESPONSE TO DOCKET 328:  
DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S OBJECTION TO  
PREMATURE RULING AND REQUEST  
FOR RULING ON RULE 15 REQUEST**

**NO ORAL ARGUMENT REQUESTED**

**PLAINTIFF'S RESPONSE TO DOCKET 328: DEFENDANTS' OPPOSITION TO PLAINTIFF'S OBJECTION  
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TO THE HONORABLE COURT AND ALL PARTIES OF RECORD:

Docket 328 is both untimely and procedurally improper. Plaintiff’s objection at Docket 322 was filed on May 27, 2025, as a narrowly scoped record-preserving notice, not a noticed motion under Local Rule 7-1. Defendants filed Docket 328 more than two weeks later, without Court leave and without legal authority permitting such a response. This pattern of late or procedurally ambiguous oppositions, mirroring their conduct in Docket 327, only compounds the procedural confusion the Plaintiff sought to preempt and underscores the necessity of a clear ruling under Fed. R. Civ. P. 15(a)(2).

Defendants’ Docket 328 opposition misconstrues both the substance and procedural legitimacy of Plaintiff’s Docket 322 objection. Far from being a “procedural shortcut,” Plaintiff’s filing was a narrowly tailored and prophylactic effort to preserve the record, in direct response to the ambiguity created by Docket 311 and the Court’s non-docketing or adjudication of timely-submitted EDSS filings related to the Fifth Amended Complaint (5AC) and pendant Fed. R. Civ. P. 59(e) motion. Defendants’ framing reflects a continued pattern of evasion and mischaracterization aimed at preventing judicial consideration of the merits.

**Haight’s contemporaneous filings at Dockets 327 and 328 reflect a disjointed and strategically inconsistent procedural posture that underscores the necessity of Plaintiff’s preemptory objection.** In Docket 327, Haight opposes Plaintiff’s surreply by minimizing the significance of Docket 311 and denying the existence of any procedural ambiguity. Yet, in Docket 328, Haight pivots and asserts that the Court’s silence regarding Plaintiff’s proposed Fifth Amended

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1 Complaint (5AC) should be construed as an implicit denial of leave to amend, an argument that  
2 directly contradicts its prior position. Haight cannot plausibly reject Plaintiff's efforts to clarify the  
3 record while simultaneously relying on that very lack of clarity to bar amendment. This structural  
4 dissonance confirms that Plaintiff's objection (Docket 322) was both necessary and appropriately  
5 timed to preserve procedural coherence and prevent exactly the kind of selective interpretation now  
6 advanced by Defendants.  
7

8  
9 **I. DEFENDANT'S OBJECTION IS UNTIMELY AND PROCEDURALLY**  
10 **IMPROPER**

11 Docket 322 was a procedural objection and preservation notice, not a noticed motion requiring  
12 opposition. Haight filed Docket 328 sua sponte, without requesting leave, stipulation, or seeking  
13 clarification about whether further briefing was permitted.  
14

15 Given Docket 322's filing on May 27, 2025, and Haight's response in Docket 328 filed on June  
16 13, 2025, the opposition comes 17 days later, and is indeed untimely and unauthorized under any  
17 applicable procedural standard. Even assuming *arguendo* that a 7-day or 14-day informal response  
18 window were reasonable under general practice, Haight still waited more than two weeks to file its  
19 opposition.  
20

21 Docket 328 does not assert any affirmative claim, protective motion, or fallback position that  
22 would preserve an issue for appeal or for future procedural remedy. It does not include any  
23 conditional language like "in the alternative," "subject to," or "without waiving," which are standard  
24 indicators that a party is reserving rights or defenses.  
25

26 It simply opposes Plaintiff's objection without acknowledging the procedural ambiguity created  
27 by Docket 311 and the Court's silence on the docketing of the Fifth Amended Complaint. This  
28 omission underscores the purely adversarial nature of Docket 328: it is not designed to aid judicial

1 efficiency or clarify procedural posture, but rather to preclude Plaintiff from procedural fairness  
2 through inflexible litigation tactics.

3  
4 Notably, this approach undermines judicial efficiency and supports Plaintiff's prior warnings  
5 about procedural gamesmanship and unnecessary motion practice.

6  
7 **II. DEFENDANTS FAIL TO ADDRESS THE COURT'S OWN ROLE IN CREATING**  
8 **PROCEDURAL UNCERTAINTY**

9 Plaintiff's filing at Docket 322 directly responds to the ambiguity introduced by the Court's prior  
10 order (Docket 311), which tacitly invited submission of the 5AC without issuing a contemporaneous  
11 ruling on the operative status of the Fourth Amended Complaint ("4AC"). Defendants attempt to  
12 frame this as "sidestepping" procedure, while ignoring that their own unsolicited filings (Dkts. 319,  
13 321) sought rulings on the 5AC's legal sufficiency without addressing the threshold question of  
14 procedural propriety.

15  
16 This contradiction exposes Haight's underlying strategy: invoke procedural rules rigidly when it  
17 serves to block clarification but abandon those same rules when asserting legal deficiencies in an  
18 undisputedly unfiled pleading.

19  
20  
21 **III. PLAINTIFF'S REQUEST IS NOT IMPROPER; IT SEEKS CLARITY AND**  
22 **PROCEDURAL ORDER**

23 Contrary to Defendants' contention, Plaintiff is not attempting to "divest the Court" of  
24 authority. Rather, Plaintiff's objection in Docket 322 was explicitly anticipatory and filed to prevent  
25 prejudicial mischaracterization of the record, particularly in light of Docket 312, which failed to  
26 acknowledge the Courts acknowledgement of consideration (at Docket 311) of Plaintiff's timely  
27 Fed. R. Civ. P. 15(a)(2) request to amend. As Docket 322 makes clear, Plaintiff is not asserting that  
28

1 the 5AC is operative, but that the Court must resolve the amendment issue before ruling on Fed. R.  
2 Civ. P. 12(b)(6) motions directed at a superseded pleading.  
3

4 This aligns with *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015),  
5 which holds that a pending motion to amend renders premature any ruling on the prior complaint.  
6 Haight's attempt to analogize this to a Rule 15(a)(1) amendment is a red herring; the Plaintiff  
7 submitted a Rule 15(a)(2) request and complied with procedural expectations as clarified in Docket  
8 311.  
9

#### 10 11 **IV. PLAINTIFF SUBMITTED TIMELY AND TRANSPARENT FILINGS**

12 The Defendants ignore the procedural sequence of events: the Plaintiff submitted the corrected  
13 5AC and redline comparison via EDSS on May 22 and May 23, 2025, respectively and well before  
14 Defendants' Docket 328 opposition. These were submitted in direct response to Docket 311, which  
15 acknowledged the 5AC and instructed Plaintiff to file a redline. Plaintiff then submitted Docket 322  
16 only after the Court issued Docket 312 without acknowledging those filings.  
17

18 This chronology confirms that Plaintiff acted in good faith, followed the Court's directives, and  
19 transparently notified the Court and parties of his submissions. There is no procedural gaming; there  
20 is a demonstrated commitment to judicial efficiency.  
21

22 Court's order in Docket 311, though limited in language, effectively displaced the ordinary  
23 opposition-reply sequence by inviting amendment review before formal motion procedures were  
24 exhausted, thereby justifying clarifying response by Plaintiff.  
25

26 While Plaintiff respectfully sought leave to file the clarifying response out of procedural caution,  
27 it bears emphasis that this should not be a contested issue at all. The clarification directly responds to  
28 a hybrid procedural posture created by the Court's own order (Dkt. 311) and Defendants' (in)formal

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1 oppositions. Denying clarification under these circumstances would elevate form over function and  
2 reward tactical confusion over transparent recordkeeping.

3  
4 By inviting submission of a redlined amended complaint in Docket 311, and then accepting and  
5 docketing Dkts. 317 and 318 without objection, the Court implicitly opened the door to limited  
6 procedural clarification, particularly when Defendants filed solicited oppositions (statements of  
7 position at Dkts. 319 and 321) that deviated from standard Rule 12 or Rule 15 procedure.  
8

9 Thus, Plaintiff's clarifying response:

- 10 a. Did not expand the scope of claims;  
11 b. Did not introduce new legal theories;  
12 c. And was a fair reply to procedural arguments Defendants themselves introduced outside the  
13 ordinary motion framework.  
14

15 In that posture, Plaintiff's motion for leave (Docket 323) was a show of deference, not an  
16 admission that the filing was improper or unusual.  
17

18 **V. DEFENDANTS' ARGUMENTS FAIL ON THE MERITS AND REPRODUCE**  
19 **ERRORS**

20 Defendants assert Plaintiff has not shown how the 5AC cures deficiencies. This is both premature  
21 and illogical: Plaintiff cannot be faulted for not establishing the sufficiency of the 5AC in the very  
22 filings Defendants are trying to suppress or strike. The proper forum for such arguments is in the  
23 motion for leave to amend, not in opposition to a record-preserving objection.  
24

25 Moreover, Defendants repeat the error of conflating Plaintiff's amendment request with final  
26 adjudication. As noted in Docket 322, Plaintiff's objection was prophylactic, not to force adoption of  
27 the 5AC, but to ensure that amendment is ruled on before the Court issues a dispositive ruling on a  
28 potentially superseded pleading.

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**VI. THE RELIEF REQUESTED IN DOCKET 322 IS PROPER AND NECESSARY UNDER RULES 15(a)(2) AND 59(e)**

Contrary to Defendants' claim that Plaintiff seeks to "unilaterally" file the 5AC, Plaintiff has repeatedly sought leave (Docket 323) and submitted briefing (Dockets 317, 318, 323-1) in full accordance with the Ninth Circuit's liberal standard for amendment under *Foman v. Davis*, 371 U.S. 178 (1962).

Defendants misleadingly invoke *Ramirez v. County of San Bernardino*, 806 F.3d 1002 (9th Cir. 2015), without acknowledging that:

1. *Ramirez* addresses the effect of **granted** amendments and not requests for leave.
2. The Court in *Ramirez* does not invalidate the principle that once an amended complaint is accepted (whether by right or leave), pending motions are mooted.

By conflating the effect of an accepted amended complaint with the procedural requirements to request one, Defendants deliberately confuse the issue and attempt to mislead the Court into ruling prematurely.

**1. RULE 15(A)(2) AND *FOMAN V. DAVIS* COMPEL A PRESUMPTION OF LEAVE, NOT FINALITY**

The Ninth Circuit has long held that leave to amend under Rule 15(a)(2) must be "freely given when justice so requires." (*Foman v. Davis*, 371 U.S. 178, 182 (1962); *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003)). The burden falls on the party opposing amendment, **not** the movant, to demonstrate that leave should be denied based on futility, bad faith, or undue delay.



Defendants invert this standard. They insist that Plaintiff bears the burden of showing that the Fifth Amended Complaint (“5AC”) cures “all” alleged defects before even being allowed to amend, an approach flatly rejected in *Lopez v. Smith*, 203 F.3d 1122, 1130–31 (9th Cir. 2000) (en banc).

This is not a request for serial amendment submitted in bad faith. Plaintiff filed the 5AC:

- a. In the context of rebutting defendant’s direct allegations in their own 12(b)(6) motions and in strict compliance with Docket 311 (the Court’s minute order inviting clarification);
- b. With a redline and declaration (Dkts. 317–318, 315);
- c. In accordance with a procedural motion under Rule 15/59(e) (Dkt. 310).

There is no violation of Rule 15, and no effort to “evade” judicial rulings. Rather, Plaintiff complied with the Court’s instruction to provide clarity and focus in the context of Defendant’s express desire to preempt merits review.

## **2. PLAINTIFF’S OBJECTION AT DOCKET 322 IS NECESSARY TO PROTECT THE INTEGRITY OF THE RECORD**

The objection in Docket 322 was prompted by a **genuine and demonstrable risk**: that the Court would adjudicate motions to dismiss the 4AC without acknowledging that a complete, corrected version of the 5AC (and related procedural context) had already been submitted in good faith, accompanied by a redline for transparency.

Haight’s assertion that this is an attempt to “avoid” a ruling is meritless. The procedural record speaks for itself:

- a. Plaintiff timely submitted the 5AC in response to Docket 311.
- b. Plaintiff filed Docket 322 to preserve judicial notice of filings between Dkts. 310–318, including the corrected redline version of the 5AC.

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1 c. Defendants have simultaneously opposed the 5AC on Rule 12 grounds and claimed it has no  
2 legal standing, all while urging the Court to ignore the very filings they addressed in their own  
3 oppositions.  
4

5 Plaintiff must reiterate the irony of Defendants' argument is striking: while accusing Plaintiff of  
6 evading judicial scrutiny, they resist every opportunity to meet the allegations, clarified in good faith  
7 at their behest, head-on. If Defendants truly seek finality, they should welcome the 5AC, file their  
8 Rule 12(b)(6) motions, and address the restructured allegations on the merits. Instead, they demand  
9 that the Court rule on outdated, superseded pleadings, all while blocking Plaintiff's good-faith efforts  
10 to refine and clarify the operative complaint.  
11  
12

## 13 **VII. HAIGHT'S STRATEGY UNDERMINES JUDICIAL EFFICIENCY AND DUE** 14 **PROCESS**

15 Defendants' strategy, now transparent across multiple filings, is designed to:

- 16 a. Avoid direct engagement with the content of the 5AC.  
17  
18 b. Force premature rulings that ignore Plaintiff's pending request for leave (Docket 323).  
19  
20 c. Create a procedural record that can later be used to bar further amendment or discovery.

21 This is not judicial efficiency; it is procedural gamesmanship. Granting the modest relief  
22 requested in Docket 322, an acknowledgment of Plaintiff's request for ruling before adjudication of  
23 Rule 12(b)(6) motions, serves not delay but procedural coherence and due process.  
24

## 25 **VIII. CONCLUSION**

26  
27 Rule 15(a)(2) explicitly encourages leave to amend "when justice so requires." Plaintiff's filing  
28 history, which includes detailed redlines, prompt corrections, and Rule 59(e) preservation, reflects a

1 litigant working to assist, not hinder, the Court's ability to render an informed ruling. Defendants'  
2 insistence on treating Docket 322 as an improper motion is unsupported, and their opposition (Docket  
3 328) does not alter the relevant legal standard: amendment must be ruled upon before the pending  
4 motions to dismiss.  
5

6  
7 Accordingly, Plaintiff respectfully reaffirms his position that:

- 8
- 9 1. The Court must first rule on Plaintiff's Rule 15(a)(2) request before resolving the pending  
10 12(b)(6) motions.
  - 11 2. The corrected 5AC and redline filings submitted via EDSS on May 22–23 should be formally  
12 docketed and made operative.
  - 13 3. Defendants' opposition (Docket 328) fails to rebut the clear procedural right to have the  
14 amendment request adjudicated on its own terms and should be rejected as improper and/or  
15 untimely.
  - 16 4. Defendants' objections in Docket 328 should be overruled.
  - 17 5. The Court should confirm that rulings on the 4AC will not issue unless and until the Court  
18 resolves the threshold procedural question regarding the 5AC's filing status; and,
  - 19 6. The Court should proceed to evaluate the proposed Fifth Amended Complaint under the  
20 proper Rule 15(a)(2) standards which Defendants repeatedly and pointedly refuse to  
21 acknowledge.  
22  
23  
24  
25

26 In the alternative, should the Court decline to grant leave, the Plaintiff preserves all rights under  
27 Federal Rule of Civil Procedure 12(d), Rule 59(e) to amend the judgment on grounds of newly  
28 discovered evidence, clear legal error, or the need to prevent manifest injustice (*Allstate Ins. Co. v.*

1 *Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011)). Additionally, Plaintiff preserves rights under Fed. R.  
2 Civ. P. 60(b), particularly subsections (1), (2), and (6), based on the Court's failure to acknowledge  
3  
4 dispositive evidence properly submitted before judgment was reaffirmed.

5 Respectfully submitted,

6 Dated: June 13, 2025

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Todd R. G. Hill  
Plaintiff, Pro Se

**STATEMENT OF COMPLIANCE WITH LOCAL RULE 11-6.1**

The undersigned party certifies that this brief contains 3,002 words, which complies with the 7,000-  
word limit of L.R. 11-6.1.

Respectfully submitted,



June 13, 2025  
Todd R.G. Hill  
Plaintiff, in Propria Persona

**Plaintiff's Proof of Service**

This section confirms that all necessary documents will be properly served pursuant to L.R. 5-  
3.2.1 Service. This document will be/has been electronically filed. The electronic filing of a  
document causes a "Notice of Electronic Filing" ("NEF") to be automatically generated by the

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1 CM/ECF System and sent by e-mail to: (1) all attorneys who have appeared in the case in this Court  
2 and (2) all pro se parties who have been granted leave to file documents electronically in the case  
3 pursuant to L.R. 5-4.1.1 or who have appeared in the case and are registered to receive service  
4 through the CM/ECF System pursuant to L.R. 5-3.2.2. Unless service is governed by Fed. R. Civ. P.  
5 4 or L.R. 79-5.3, service with this electronic NEF will constitute service pursuant to the Federal  
6 Rules of Civil Procedure, and the NEF itself will constitute proof of service for individuals so served.  
7

8 Respectfully submitted,  
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13 June 13, 2025  
14 Todd R.G. Hill  
15 Plaintiff, in Propria Persona  
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